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Via ECF

April 5, 2022

Honorable Judge Gregory Woods  
United States District Court  
Southern District of New York  
40 Foley Square, NY 10007

*RE: Kumaran et al vs. Vision Financial Markets et al 1:20-CV-03871-GHW-SDA*

**Letter Motion to Disqualify Attorney David Kostus**

Dear Honorable Judge Woods,

**MOTION**

Defendant Julie Villa moves this court for an order on motion to disqualify attorney David Kostus from appearing in the above-entitled matter.

**BACKGROUND**

On March 2, 2022, The honorable Gregory H. Woods issued an ORDER granting Attorney Brian August's motion to withdraw as corporate counsel on behalf of Corporate Plaintiffs Nefertiti Risk Capital Management, LLC ("NRCM"), Plaintiff Nefertiti Asset Management, LLC ("NAM") and Nefertiti Holding Corporation ("NHC"). (ECF No. 150).

On April 1, 2022, attorney David Kostus filed a "Notice of Appearance" (ECF No. 165) in Case No.: 1:20-cv-03871-GHW-SDA on behalf of Plaintiffs and as lead counsel for Corporate Plaintiffs Nefertiti Risk Capital Management, LLC ("NRCM"), Plaintiff Nefertiti Asset Management, LLC ("NAM") and Nefertiti Holding Corporation ("NHC"). The information provided in the "Notice of Appearance" is listed as: **Business Name:** Kostus Law, LLC; **Business Address:** 119 West 24<sup>th</sup> Street Fourth Floor New York 10011; **Business Phone:** (917) 664-1407.

This information does not comply with ***New York State Unified Court System Rules of the Chief Administrative Judge*** Part 118. Registration of Attorneys, In-House

Counsel, and Foreign Legal Consultants. Section 118.1 Filing Requirements states (f) In the event of a change in the name of attorney, office addresses, home address, business telephone number, or e-mail address reported pursuant to subdivision (e) of this section, the attorney shall file an amended statement within 30 days of such change.

On April 1, 2022, Defendant Villa conducted a due diligence review on attorney David Kostus using the New York State Unified Court System “Attorney Online Services Search” feature.<sup>1</sup> The database query using parameter first name “David” and parameter last name “Kostus” returned the following information as of April 1, 2022, inter alia. **Registration Number:** 4293700; **Name:** David Solomon Kostus; **Business Name:** Segal McCambridge Singer & Mahoney, LTD; **Business Address** “15 Exchange Pl Ste 1020, Jersey City 07302-4938; **Business Phone:** (201) 604-4086; **Registration Status:** Attorney – **Delinquent**; **Next Registration:** **May 2023**.

The two attached exhibits: Exhibit 1 and Exhibit 2 are printed screenshots of the results obtained using the online system described supra on April 1, 2022.

### **RELEVANT LAW**

#### ***New York State Unified Court System Rules of the Chief Administrative Judge***

Part 118. Registration of Attorneys, In-House Counsel, and Foreign Legal Consultants, Section 118.1 Filing Requirements states

(c) Every attorney admitted to practice in New York State after January 1, 1986, whether resident or nonresident, and whether or not in good standing, shall file a registration statement prior to taking the constitutional oath of office, and during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York bar.

According to the (“NYSUCS”) Database, attorney David Kostus’ “Next Registration” window, enabling an to update his registration status from “Delinquent”, is not available until May 2023, at least one month from his “Notice of Appearance”.

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<sup>1</sup> <https://iapps.courts.state.ny.us/attorneyservices/search?1>

(f) In the event of a change in the name of attorney, office addresses, home address, business telephone number, or e-mail address reported pursuant to subdivision (e) of this section, the attorney shall file an amended statement within 30 days of such change.

(g) Each registration statement filed pursuant to this section shall be accompanied by a registration fee of \$375. No fee shall be required from an attorney who certifies that he or she has retired from the practice of law. For purposes of this section, the "practice of law" shall mean the giving of legal advice or counsel to, or providing legal representation for, particular body or individual in a particular situation in either the public or private sector in the State of New York or elsewhere, it shall include the appearance as an attorney before any court or administrative agency.

(h) Failure by any attorney to comply with the provisions of this section shall result in referral for disciplinary action by the Appellate Division of the Supreme Court pursuant to section 90 of the Judiciary Law.

Due to the eleventh hour filing of this "Notice To Appear" it is not possible to further confirm the validity of the database or verify the status of attorney David Kostus as of April 1, 2022. Because these circumstances are almost identical to the fact pattern that led Kumaran's prior counsel, attorney Biran August, to join the case on behalf of named Plaintiff's it is incumbent upon Defendant and the court to determine whether this "Notice To Appear" complies with the law as provided.

### **ORDER ON MOTION**

In the absence of confirmation that counsel is qualified under the relevant law, as of April 1, 2022, Defendant for the reasons stated above hereby moves this court for an order to disqualify attorney David Kostus as corporate counsel on behalf of Corporate Plaintiffs Nefertiti Risk Capital Management, LLC ("NRCM"), Plaintiff Nefertiti Asset Management, LLC ("NAM") and Nefertiti Holding Corporation-("NHC").

Respectfully submitted,

/s/ Jule Villa  
JULIE VILLA, *Pro Se*